

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Alan G. BAXTER

Serial No.: 09/308,192

Filing Date: July 14, 1999

For: METHOD OF IMMUNOMODULATORY
TREATMENT OF INSULIN
DEPENDENT DIABETES MELLITUS
USING MYCOBACTERIAL CELL
WALL COMPOSITIONS (as amended)

Examiner: S. Devi

Group Art Unit: 1645

RECEIVED

MAR 03 2006

OFFICE OF PETITIONS

PETITION TO WITHDRAW APPLICATION FROM
ISSUE PURSUANT TO 37 CFR 1.313(c)(2)

MS 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Commissioner to withdraw this application from issue.

The issue fee for this case was paid on February 9, 2006.

The reason for the request for withdrawal from issue is to permit consideration of a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 and the references cited in the attached Information Disclosure Statement. These references, which were cited in a European Search Report for a counterpart of this application, were inadvertently not brought to the attention of the undersigned attorneys and thus not submitted during the prosecution of this application prior to allowance. Applicant wishes to forestall any issue in this application regarding the duty of candor by having these references considered upon filing of the attached RCE.

03/06/2006 CKHLOK 00000003 031952 09308192


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va-154612

Please charge our Deposit Account No. 03-1952 in the amount of \$525.00 (\$130.00 for the petition fee under 37 CFR 1.17(h) and \$395.00 as payment of the fee for filing Request for Continued Examination (RCE) Under 37 CFR 1.114).

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-1952, under Order No. 229752000600. A duplicate copy of this paper is enclosed.

Dated: March 3, 2006


Respectfully submitted,

By 
Barry E. Bretschneider
Registration No. 28,055
MORRISON & FOERSTER LLP
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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <h2 style="margin: 0;">FEE TRANSMITTAL</h2> <h3 style="margin: 0;">For FY 2005</h3>		Complete if Known	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	09/308,192
		Filing Date	July 14, 1999
		First Named Inventor	Alan G. BAXTER
		Examiner Name	S. J. N. Devi
		Art Unit	1645
RECEIVED MAR 03 2006 OFFICE OF PETITIONS		Attorney Docket No.	229752000600
TOTAL AMOUNT OF PAYMENT		(\$) 525.00	

METHOD OF PAYMENT (check all that apply)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: <u>03-1952</u> Deposit Account Name: <u>Morrison & Foerster LLP</u>	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee	
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Credit any overpayments	

FEE CALCULATION								
1. BASIC FILING, SEARCH, AND EXAMINATION FEES								
Application Type	Fee (\$)	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
		Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	
Utility	300	150	500	250	200	100		
Design	200	100	100	50	130	65		
Plant	200	100	300	150	160	80		
Reissue	300	150	500	250	600	300		
Provisional	200	100	0	0	0	0		
2. EXCESS CLAIM FEES								
							Small Entity	
Fee Description							Fee (\$)	
Each claim over 20 (including Reissues)							50	
Each independent claim over 3 (including Reissues)							200	
Multiple dependent claims							360	
Total Claims		Extra Claims		Fee (\$)		Fee Paid (\$)		
_____		_____		_____		_____		
Indep. Claims		Extra Claims		Fee (\$)		Fee Paid (\$)		
_____		_____		_____		_____		
3. APPLICATION SIZE FEE								
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).								
Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee (\$)		
_____		_____		_____		_____		
- 100 = _____		/ 50		(round up to a whole number) x _____		= _____		
							Fees Paid (\$)	
4. OTHER FEE(S)								
Non-English Specification, \$130 fee (no small entity discount)								
Other (e.g., late filing surcharge): 2801 Request for continued examination (RCE) (see 37 ...							395.00	
1464 Petitions requiring the petition fee set forth in 37 CFR 1.17(h)							130.00	

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent)	28,055
Name (Print/Type)	Barry E. Bretschneider	Telephone	(703) 760-7743
		Date	March 3, 2006